

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #10	CCRB Case #: 201911064	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/10/2019 1:30 PM	Location of Incident: § 87(2)(b)	Precinct: 42	18 Mo. SOL 6/10/2021	EO SOL 1/25/2022	
Date/Time CV Reported Mon, 12/30/2019 5:29 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 12/30/2019 5:29 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Radzinski	17537	959105	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christophe Radzinski	Abuse: Police Officer Christopher Radzinski entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
B.POM Christophe Radzinski	Abuse: Police Officer Christopher Radzinski searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On December 30, 2019, § 87(2)(b) filed this complaint with the CCRB in person during his statement for § 87(2)(g) which covered a separate incident.

On December 10, 2019, at approximately 1:30 p.m., in the vicinity of § 87(2)(b) § 87(2)(b) observed a police vehicle outside of the building in which he resided. § 87(2)(b) went inside the building and an unidentified security officer informed § 87(2)(b) that an officer, PO Christopher Radzinski of the 42nd Precinct, was inside his apartment, Apt. 8B, with § 87(2)(b) the facility director of the building (**Allegation A: Abuse of Authority – Entry of premises**, § 87(2)(g) and **Allegation B: Abuse of Authority – Search of premises**, § 87(2)(g)). The security officer advised § 87(2)(b) to take the stairs up to his apartment and he complied. By the time § 87(2)(b) got to his apartment PO Radzinski and § 87(2)(b) were gone. § 87(4-b) § 87(2)(g)

This incident resulted in no summonses or arrests. The nature of the incident did not require the use of body-worn camera as per the Patrol Guide. There was no known video of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Christopher Radzinski entered § 87(2)(b).

Allegation (B) Abuse of Authority: Police Officer Christopher Radzinski searched § 87(2)(b).

It was undisputed that a security officer contacted NYPD in regard to a water leak at § 87(2)(b), a supportive housing facility in the Bronx. It was also undisputed that PO Radzinski went inside of the apartment with building staff while § 87(2)(b) was not home.

§ 87(2)(b) stated (**BR 01**) that earlier that day on December 10, 2019, maintenance personnel and a security guard were inside of his apartment to inspect the bathroom for the source of the leak which was occurring on the first floor. § 87(2)(b) then went to housing court and the facility director, § 87(2)(b) knew he would not be home during that time. § 87(2)(b) added that § 87(2)(b) had an order of protection against him. When § 87(2)(b) returned from housing court, he observed a police vehicle outside of the building. An unidentified security officer informed § 87(2)(b) that officers and § 87(2)(b) were inside his apartment and suggested he take the stairs. By the time § 87(2)(b) reached his § 87(2)(b)-floor apartment the officers and § 87(2)(b) were gone. § 87(2)(b) believed no one walked past the bathroom area of his apartment because his live feed camera never notified him of any movement.

§ 87(2)(g) § 87(2)(b) stated (**BR 02**) that § 87(2)(b) did not voluntarily let security officers and maintenance into his apartment to inspect his unit for the source of the water leak. There was water leaking into § 87(2)(b)'s office on the § 87(2)(b) floor. § 87(2)(b)'s office was situated underneath the § 87(2)(b). § 87(2)(b) explained that § 87(2)(b) had a history of vandalizing the building and threatening staff members. Due to this behavior, NYPD officers were called for protection of staff members while building staff entered the apartment to inspect the source of the leak.

In § 87(2)(b)'s call to 911 (**BR 03**; audio and **BR 04**; description) she explained to the 911 operator that she needed a police escort into the apartment because there was an open criminal court case with § 87(2)(b). § 87(2)(b) stated that there was “leak damage” coming from § 87(2)(b) into the § 87(2)(b) floor.

An incident report (**BR 05**) prepared by security officer § 87(2)(b) stated that § 87(2)(b) asked security staff to call the police because a leak from the § 87(2)(b) floor was coming into her office. PO Radzinski arrived and went upstairs with security officer Figueroa and staff. PO Radzinski informed staff that he did not see any leaks or water and then left the building.

Security officer § 87(2)(b) 911 call (**BR 06**; audio and **BR 04**; description) showed that a resident, § 87(2)(b) was causing a leak into the director's office and the director needed a police

escort into the apartment. Security officer Stan also mentioned that the building was taking § 87(2)(b) to court.

Per § 87(2)(b)'s lease agreement (**BR 07**), section 18 grants access to the landlord, its agents, employees, and mechanics at all reasonable hours to make repairs and for inspection of the apartment. In the event of an emergency which may cause damage to the building, the landlord may enter the premises without prior notice.

PO Radzinski stated (**BR 08**) that he received a call on his department issued smartphone from § 87(2)(b) in which she asked for a favor to help with an issue she was having with § 87(2)(b). PO Radzinski had provided his phone number to § 87(2)(b) on a prior occasion and was aware that § 87(2)(b) had been having issues with § 87(2)(b) for several months. PO Radzinski was not aware of any 911 calls or radio runs in regard to this incident. § 87(2)(b) informed PO Radzinski that there was a leak which was causing water damage to her office and she believed the water was coming from § 87(2)(b)'s apartment, which was § 87(2)(b) floors above her office.

Upon arrival, PO Radzinski did not go into § 87(2)(b)'s office to view the damage. PO Radzinski went to the § 87(2)(b) floor with § 87(2)(b) and a security guard. § 87(2)(b) knocked on § 87(2)(b)'s door and there was no answer. § 87(2)(b) asked PO Radzinski to go into § 87(2)(b)'s apartment and check for running water. PO Radzinski stated that he did not have a warrant and § 87(2)(b) informed him that the building had the authority to enter the apartment for inspection. Management unlocked § 87(2)(b)'s door and PO Radzinski entered and announced himself. PO Radzinski did not recall whether any staff members entered with him. PO Radzinski looked underneath § 87(2)(b)'s bed because he had prior knowledge that § 87(2)(b) could become violent and wanted to make sure he was not going to ambush him. PO Radzinski then checked the kitchen sink and bathroom and did not see any running water. § 87(2)(b) informed PO Radzinski that § 87(2)(b) was on his way back and PO Radzinski left to avoid a confrontation.

PO Radzinski explained that his purpose in being there was to keep things peaceful and to make sure nothing bad happened. § 87(2)(b) did not feel safe talking to § 87(2)(b) because they had a history. PO Radzinski did not consider the water leak to be an emergency.

In People v. Rodriguez, 77 A.D. 3d 280 (2010) (**BR 09**), the court found that officers were permitted to make a warrantless entry of a premises when the officers reasonably believed that there was an emergency which required immediate assistance for the protection of life or property, and that there was a reasonable basis to associate the premises with the emergency at hand.

In People v. Ruiz, 13 Misc. 3d 1225(A) (2006) (**BR 15**), the court found that a landlord does not share common authority with a tenant and, therefore, may not consent to a search. People v. Ruiz cites to People v. Cosme.

In People v. Cosme, 48 N.Y.2d 286 (1979) (**BR 16**), the court found that a person with common authority and equal access and use of a premises can voluntarily consent to the warrantless search of the premises.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(2)(g) [REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to seven additional CCRB complaints and named a victim in 25 allegations (**BR 12**).
 - § 87(2)(b)
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- PO Radzinski has been a member of service for five years and named a subject in two additional CCRB complaints and three allegations, none of which have been substantiated.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of July 31, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (**BR 13**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 10

Investigator: Kelly Lyon
Signature

Inv. Kelly Lyon
Print Title & Name

02/10/2021
Date

Squad Leader: Eric Rigie
Signature

IM Eric Rigie
Print Title & Name

2/10/2021
Date

Reviewer:

Signature

Print Title & Name

Date